

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN**

**Tuesday, the 20th day of May 2025 / 30th Vaisakha, 1947
WP(C) NO. 32680 OF 2008**

PETITIONER:

1. C.P.AJITHKUMAR AGED 41 YEARS PROPRIETOR, SUBURBAN TRAVELS, MAMANGALAM, COCHIN-24, (PRESIDENT, TRAVEL, OPERATORS ASSOCIATION OF KERALA).
2. KERALA MERCHANTS UNION (FORMERLY ERNAKULAM MERCHANTS UNION), MERCHANTS UNION BUILDING, MERCHANTS UNION ROAD, COCHIN-11, REPRESENTED BY ITS GENERAL SECRETARY.

RESPONDENT:

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT, (ROADS), GOVT.SECRETARIAT, TRIVANDRUM.
2. THE SECRETARY TO GOVERNMENT, FINANCE DEPARTMENT, GOVT.SECRETARIAT, TRIVANDRUM.
3. THE CHIEF ENGINEER, PUBLIC WORKS DEPARTMENT (ROADS), TRIVANDRUM.
4. CORPORATION OF COCHIN, REPRESENTED BY ITS SECRETARY, BOAT JETTY, ERNAKULAM.
5. GREATER COCHIN DEVELOPMENT AUTHORITY, KADAVANTHARA, ERNAKULAM, COCHIN-20, REPRESENTED BY ITS SECRETARY.
6. ADDL.R6.THE CHIEF ENGINEER, (NATIONAL HIGHWAYS), TRIVANDRUM-695033.
7. ADDL.R7.THE REGIONAL OFFICER, NATIONAL HIGHWAY AUTHORITY OF INDIA, OFFICE OF THE CHIEF ENGINEER, (NATIONAL HIGHWAYS), TRIVANDRUM-695033. (ADDDL. R6 AND R7 ARE IMPEADED AS PER ORDER DATED 28.11.2008 IN IA.15338/2008).
8. ADDL.R8.THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT COCHIN, NATIONAL HIGHWAY AUTHORITY OF INDIA, MANGALYA VAIDHYA MADOM, VYTILA, ERNAKULAM.
9. ADDL.R9.THE PROJECT DIRECTOR, PROJECT IMPLEMENTATION UNIT PALAKKAD, NATIONAL HIGHWAY AUTHORITY OF INDIA, ARMUGHAM COLONY, CHANDRA NAGAR, PALAKKAD. (ADDL.R8 AND R9 ARE IMPEADED AS PER ORDER DATED 17.12.2008 IN .I.A.16206/2008.)
10. ADDL.R10.UNION OF INDIA, REP. BY SECRETARY TO GOVERNMENT, MINISTRY OF SURFACE TRANSPORT, CENTRAL SECRETARIAT, NEW DELHI. (ADDL.R10 IS IMPEADED AS PER ORDER 30.03.2009 DATED IN I.A.4647/2009.)
11. ADDL.R11.CENTRE FOR CONSUMER EDUCATION, MARKET ROAD, PALAI, REPRESENTED BY ITS MANAGING TRUSTEE DEJO KAPPAN, AGED 54, S/O.LATE K.C.JOSEPH, RESIDING AT 17 A, PRESIDENCY HOMES, KALOOR, ERNAKULAM. (ADDL.R11 IS IMPEADED AS PER ORDER 12.10.2011 DATED IN IA.15616/2011.)
12. ADDL.R12. KERALA GOVERNMENT CONTRACTORS ASSOCIATION, HEAD OFFICE SREEKUMAR BUILDING, IRON BRIDGES.P.O., ALAPPUZHA-688001, REPRESENTED BY ITS PRESIDENT VARGHESE KANNAMPALLY
13. ADDL.R13.P.R.ASHOKUMAR, RAMAPRIYA, PARAYAKADU.P.O., CHERTHALA, ALAPPUZHA DISTRICT-688001. (ADDL.R12 AND R13 ARE IMPEADED AS PER

ORDER DATED 18.10.2011 IN I.A.15475/2011.)

14. ADDL.R14.THE DISTRICT COLLECTOR, ERNAKULAM. (ADDL.R14 IS SUO MOTU IMPEADED AS PER ORDER DATED 11.10.2019 IN WPC.)
15. ADDL R15 THE PROJECT DIRECTOR, NATIONAL HIGHWAY AUTHORITY OF INDIA, ERNAKULAM IS SUO MOTU IMPEADED AS ADDL. R15 AS PER ORDER DATED 17.12.2021 IN WP(C) 32680/2008.
16. ADDL.R16. THE COMMISSIONER OF POLICE, KOCHI. (IS SUO MOTU IMPEADED AS ADDL.R16 AS PER ORDER DATED 14-01-2022 IN WP(C) 32680/2008).
17. ADDL. R17.COCHIN SMART MISSION LIMITED, 4TH FLOOR, JLN STADIUM METRO STATION, KALOOR, KOCHI- 682017 (IS SUO MOTU IMPEADED AS ADDITIONAL R17 AS PER ORDER DATED 01.08.2022 IN WP(C) 32680/2008.)
18. ADDL. R18. REGIONAL OFFICER, NHAI, THIRUVANANTHAPURAM IS SUO MOTU IMPEADED AS ADDITIONAL R18 AS PER ORDER DATED 08/08/2022 IN WP(C) 32680/2008.
19. ADDL. R19. THE TRANSPORT COMMISSIONER, TRANSPORT COMMISSIONERATE, 2ND FLOOR, TRANS TOWER, C.V.RAMAN PILLAI ROAD, DPT, VAZHUTHACAUD, THIRUVANANTHAPURAM, KERALA- 695014 IS SUO MOTU IMPEADED AS ADDITIONAL R19 AS PER ORDER DATED 06.10.2022 IN WP(C) 32680/2008.
20. ADDL. R20. JAMSHEED HAFIZ, S/O. MOOSAKUTTY, AGED 39 YEARS, NEETHINILAYAM, TIRUR, MALAPPURAM DISTRICT, PIN- 676104, PRESENTLY RESIDING AT FLAT NO.B2, FIRST FLOOR, K.N.ARCAD, PHASE -II, KELAMANGALATH CROSS ROAD, SRM ROAD, ERNAKULAM 18 IS IMPEADED AS ADDL. R20 AS PER ORDER DATED 28.10.2022 I.A. 2/2022.
21. ADDL.R21. KERALA STATE ELECTRICITY BOARD, REPRESENTED BY THE SECRETARY, VYDYUTHI BHAVANAM, PATTON, THIRUVANANTHAPURAM 695004 IS SUO MOTU IMPEADED AS ADDL. R21 AS PER ORDER DATED 10.11.2022 IN WP(C) 32680/2008.
22. ADDL. R22. EDRAAC (ERNAKULAM DISTRICT RESIDENTS ASSOCIATION'S APEX COUNCIL), REG. NO.ER/735/03, CORPORATION SHOPPING COMPLEX, SUBHASH CHANDRA BOSE ROAD JUNCTION, PONNURUNNI, VYTTILA, COCHIN-19, PIN- 682019 ADDITIONAL R22 IMPEADED AS PER THE ORDER DATED 08.03.2023 IN I.A. 1/2023.

BY SRI.K.V.MANOJ KUMAR, SENIOR GOVERNMENT PLEADER FOR R1 TO R3, R14 AND R16.

BY SRI.K.JANARDHANA SHENOY, STANDING COUNSEL FOR R4.

BY SRI.M.K.THANKAPPAN, ADVOCATE FOR R5.

BY SRI.SEBASTIAN THOMAS, SRI.K.V. KURIAKOSE AND SRI. LIJO JOSEPH GEORGE ADVOCATES FOR R6 AND R7.

BY SRI.THOMAS ANTONY, ADVOCATE FOR R8 AND R9.

BY SRI.S.KRISHNAMOORTHY, CENTRAL GOVERNMENT COUNSEL FOR R10.

BY SRI.JOHNSON MANAYANI, ADVOCATE FOR R11.

BY SRI.JOMY GEORGE, ADVOCATE FOR R12 AND R13.

BY SMT.M.U.VIJAYALAKSHMI, STANDING COUNSEL FOR CSML, ADDL.R17.

BY BIDAN CHANDRAN, STANDING COUNSEL FOR ADDL.R18.

BY SRI.RILGIN.V.GEORGE, ADVOCATE FOR ADDL.R20.

BY SRI.B.ARUNKUMAR, STANDING COUNSEL FOR ADDL.R21.

BY M/S.ATUL SOHAN, R.REJI, SREEJA SOHAN.K, ADVOCATES FOR ADDL.R22.

BY M/S.S.KRISHNA, P.DEEPAK AND VINOD BHAT, AMICUS CURIAE.

This Writ Petition (Civil) having come up for orders on 20.05.2025, upon perusing this court's judgement dated 18.10.2019 and order dated 10.04.2025, the Court on the same day passed the following:



DEVAN RAMACHANDRAN, J.

WP (C) .No.32680 of 2008

Dated this the 20th day of May, 2025

O R D E R

It is with an inevitable sense of foreboding that this Court hears Sri.Bidan Chandran - learned Standing Counsel for NHAI, that there has "caving in" and "sinking" in the newly constructed National Highway at some stretches in Kerala. He offered that a report in this regard will be filed; adding that necessary steps have been taken to rectify the situation, in consultation with all relevant and necessary stake holders.

2. The onset of monsoon in Kerala presents a situation which is very singular to the State. Inundation is expected, unless measures are taken to avert it appropriately. It requires the roads to be kept ready, as also the pedestrian

areas; and this assumes significance because the Hon'ble Supreme Court has recently reminded that foot paths are part of the fundamental rights, aligned to the right to life, under the constitutional imperatives.

3. This Court has been directing the Public Works Department (PWD) to provide for footpaths at least in the major roads of the Kochi city; but alas, the most important of them, namely the M.G.Road, now remains without even a semblance of such a facility. Of course, the PWD says that they have taken upon themselves the task of removing the broken slabs and restoring the drains with a proper footpath; but there is no credible information when this will be completed.

4. Sri.K.V.Manoj Kumar - learned Senior Government Pleader, however, affirmed that the work on the footpath of the M.G.Road is going on

and added that it will become "usable" by 30.06.2025.

5. The monsoons also bring up an equally important issue, namely the manner in which the traffic moves in the city - especially the heavy vehicles, including buses, etc. Sri.K.V.Manoj Kumar - learned Government Pleader, submitted that the earlier orders of this Court have been fully implemented and that the police are cracking down on all indiscipline in the movement of the traffic and undertook that this will be continued to be ensured and maintained throughout. This is recorded.

6. Many roads in the city of Kochi had been handed over to the Cochin Smart Mission Limited(CSML) for restoration. However, complaints are now arising, particularly as pointed out by the learned Amicus Curiae - Sri.Vinod Bhat and Sri.S.Krishna, that many

stretches, including on the Banerji Road - specifically near about the St.Alberts College, Abraham Madamakkal Road (towards the Goshree Bridge) etc; the tiles paved on the footpaths have already been dislodged as also the bollards. They pointed out that, for some reason, either the footpaths have caved in, thus dislodging the tiles; or that the latter are being easily removed by deliberate action or by vagaries of nature. Similarly, qua the bollards, they say they are clueless as to how they are able to be uprooted so easily; which they added is a common sight on most of the roads restored by the CSML.

7. Smt.Vijayalakshmi - learned Standing Counsel for the CSML, responded to the above observations of the learned Amici Curiae, saying that her client will look into the issue and

file a detailed report before this Court as required.

8. I propose to list this matter quickly because, unless steps in the right direction are taken and executed with expedition, monsoons may not be a pleasant experience of many of the citizens of this city.

I, therefore order that this matter be listed on 23.05.2025 at 3 P.M; on which day, the reports from the CSML; the PWD; Corporation of Kochi; the National Highway Authority and the police shall be available on record without fail.

Sd/-

DEVAN RAMACHANDRAN
JUDGE

SAS